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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,802	04/15/2004	Arthur W. Simpson	IPM1.PAU.06	6650

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Vic Y. Lin
MYERS DAWES ANDRAS & SHERMAN LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

EXAMINER

ALIMENTI, SUSAN C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/824,802	SIMPSON ET AL	
	Examiner	Art Unit	
	Susan C. Alimenti	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-8, 12-16, 20-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by McCrimmon (US 2,426,973).

Regarding claims 1, 8, 14, 15, 20-23 McCrimmon discloses a rodent terminating device comprising a spring 11 biased snap bar 3 that pivots between a default position near a first side (not shown) and an engaged/loaded position toward a second side (as seen in Figures 2 & 3).

A trigger bar (Figure 8) is configured to engage the snap bar 2 in the loaded position (Figure 1). The trigger bar includes a horizontal, straight platform 18, and an upwardly depending vertical trigger portion 20. Said trigger portion comprised catch 22, which is adapted to releasably engage the transverse section of snap bar 3, via vertical pin 26. The trigger bar has a pivot point at 17 above the top surface of base 1, and is configured to pivot above the top base surface.

The snap bar pivot line may, at least, be defined as the invisible line created, in an arcuate manner, by the transverse portion of snap bar 3 as it travels along its path between the default and loaded positions. Trigger platform 18 is considered to be below this pivot line.

Regarding claims 2 & 3, the vertical trigger 20 appears, in Figure 1, to be extending at approximately a perpendicular angle with respect to the platform 18.

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Regarding claim 6 & 7, the horizontal trigger is suspended above the base and is anchored at 17 to pivotably couple it to the base.

Regarding claim 12, the central portion of the trigger bar defines a stem portion, and further has a bend 19, making platform 18 further upward from base 1 (*See* Figure 2).

Regarding claim 13, the vertical trigger 20 defines two sides that face both a first and second end of base 1.

Regarding claim 16, the trigger bar bends at 19, defining a hole for pivot 17 to fit through.

3. Claim 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Bunker (US 1,796,503).

Bunker discloses a rodent terminating device comprising a snap bar 12, rotating about pivot 14, said pivot defining a pivot dividing line, which divides base 10 in half. Bunker's device further has a one piece trigger bar 17, having a platform 18 and a vertical trigger 20 and catch 23 for engaging snap bar 12.

Regarding claim 24, pivot bar 17 is pivotably coupled to the base 10 at point 22 with said pivot being located in non-operative portion of the device as divided above, said portion defined as the side opposite the portion containing the platform.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 6-8, 12-14, 15, 20-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hooker (US 580,694) in view of Bunker (US 1,796,503)

Hooker et al. (Hooker) discloses the claimed invention except the trigger portion is not vertical integral with the trigger bar. Regarding claims 1, 8, 14, 15, 20-23 and 25, Hooker discloses a rodent terminating device comprising a spring 3 biased snap bar 2 that pivots on loop 10 between a default position near a first side (as seen in Figure 2) and an engaged/loaded position toward a second side (as seen in Figure 1). A trigger bar 4 is configured to engage the snap bar 2 in the loaded position (Figure 1). The trigger bar 4 includes a horizontal, straight platform 16 (capable of holding bait, ll.73-81), and an upwardly depending vertical trigger portion 5. Said trigger portion comprised catch 18, which is adapted to releasably engage the transverse section of snap bar 2. The trigger bar 4 has a pivot point at 11 above the top surface of base 1, and is configured to pivot above the top base surface. The snap bar pivot line may, at least, be defined as the invisible line created, in an arcuate manner, by the top edge of snap bar 2 (the edge contacting catch 18) as it travels along its path between the default and loaded positions. Trigger platform 16 is considered to be below this pivot line.

While the vertical trigger 5 is not integral with trigger 4, Bunker and a plurality of other references teach making the trigger on a similar device integral with the connecting bar. It

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would have been obvious to one having ordinary skill in the art at the time the invention was made to make trigger 5 and trigger bar 4 in one piece since it has been held that forming in one piece what was formerly two, while not changing the function of the parts, "would be merely a matter of obvious engineering choice." *In re Larson*, 340 F.2d 965, 968 (CCPA 1965).

Regarding claims 2 & 3, the vertical trigger appears, in Figure 1, to be extending at approximately a perpendicular angle with respect to the platform 16.

Regarding claim 6 & 7, the horizontal trigger is suspended above the base and is anchored at 11 to pivotably couple it to the base.

Regarding claim 12, the central portion of trigger 4 defines a stem portion, and further has a bend 11, making the stem further from base 1.

Regarding claim 13, the edges of vertical trigger 5 define sides that face both a first and second end of base 1.

6. Claims 9-11 and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Hooker as applied above, and further in view of O'Hara (USPN 5,488,800).

Regarding claims 9 and 17, Hooker discloses the claimed invention except he does not utilize an adhesive on the platform 16. O'Hara positively teaches the use of an adhesive coating 10 on the top of platform 7 in order to create a surface tacky enough to cause the animal, intended to be trapped, to stick to the platform when going for the bait. (O'Hara, col.2, lns.49-59) Upon sticking to the platform the animal will more surely trigger the snap mechanism in its attempt to escape. It would have been obvious to one having ordinary skill in the art at the time

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the invention was made to add an adhesive coating to the platform of Hookers' device in order to increase the efficiency of the device by raising the trapping accuracy of the device.

Regarding claims 11 and 19, O'Hara does not positively discuss the limitation of a cover over the adhesive material. It would have been an obvious matter of design choice to place some kind of covering over the adhesive material in order to preserve it, since it was known in the art that when an adhesive or "sticky" surface is left exposed debris and other material will become affixed thereto, and in a relatively short time the adhesive properties of the surface will become non-functional.

7. Claims 9-11 and 17-19 rejected under 35 U.S.C. 103(a) as being unpatentable over McCrimmon as applied above, and further in view of O'Hara (USPN 5,488,800).

Regarding claims 9 and 17, McCrimmon discloses the claimed invention except he does not utilize an adhesive on the platform 16. O'Hara positively teaches the use of an adhesive coating 10 on the top of platform 7 in order to create a surface tacky enough to cause the animal, intended to be trapped, to stick to the platform when going for the bait. (O'Hara, col.2, lns.49-59) Upon sticking to the platform the animal will more surely trigger the snap mechanism in its attempt to escape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add an adhesive coating to the platform of McCrimmon's device in order to increase the efficiency of the device by raising the trapping accuracy of the device.

Regarding claims 11 and 19, O'Hara does not positively discuss the limitation of a cover over the adhesive material. It would have been an obvious matter of design choice to place some kind of covering over the adhesive material in order to preserve it, since it was known in the art

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that when an adhesive or “sticky” surface is left exposed debris and other material will become affixed thereto, and in a relatively short time the adhesive properties of the surface will become non-functional.

Response to Arguments

8. Applicant's arguments with respect to claims 1-3, and 6-25 have been considered but are moot in view of the new grounds of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897.

The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan C. Alimenti

FRANK PALO
PRIMARY EXAMINER

Francis T. Palo